

EXHIBIT 8

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HB 322

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**SUMMARY OF TESTIMONY of Vicki Knudsen**

I have been an attorney in Montana since the fall of 1985 and currently am working primarily in conflict resolution rather than litigation. I am not an arbitrator and have no interest in being one, but I do believe very strongly in arbitration and alternative dispute resolution in general. I am here to express my opposition to HB 322.

Earlier this week I was provided, as a member of the Dispute Resolution Committee of the Montana State Bar, a copy of Representative Blewett's proposed amendments. I do support those amendments, but am sorry to say that they are simply not enough to erase the numerous remaining problems with this bill.

It is my understanding that this bill is based primarily on the California law originally passed in 2001. After careful review, however, it is clear that only "select" parts of that law were pulled to create HB 322, with a result that I believe makes it completely unworkable.

Some of my primary concerns include, but are not limited to:

1. If the focus of HB 322 is to address problems with contracts of adhesion, then call it by the right name, such as the "Fairness in Consumer Arbitration Act" and make that the focus of the bill.
2. This bill takes away the right of confidentiality from individual parties.
3. This bill requires arbitrators to breach confidentiality of parties not involved in the proceeding.
4. This bill sets absolutely no responsibility of the parties or attorneys to disclose or follow time lines.
5. This bill allows parties to "save" objections and gives the ability to set aside arbitration decisions until after award.
6. This bill sets no limit to the number of times a party can disqualify an arbitrator
7. This bill fails to recognize the entire realm of collective bargaining (grievance arbitration, interest arbitration, and statutes relating to collective bargaining and public employers).
8. This bill does not allow parties to choose their own process even if there is agreement.
9. This bill assumes everyone who uses arbitration must be protected, even if represented by an attorney.
10. This bill would result in a virtual end to arbitration in Montana until problems could be fixed, such as
  - a. Leaving cases in limbo for an extensive time,
  - b. Having Montana cases decided just across the border in another state, and/or
  - c. Flooding the courts, when the goal of arbitration is to ease the burden of the court.
11. This bill will make it even more difficult to find arbitrators willing to take Montana cases.
12. This bill will make it more expensive than it already is for parties who want to use arbitration.

HB 322/

If the goal of HB 322 is to "lift the veil of secrecy" surrounding arbitration proceedings we need to consider very carefully the reasons parties select arbitration as an alternative to the courts, and the reason it has been accepted so universally.

The method set out in the bill would be similar to the parties expecting to be able to obtain from each district judge a detailed list of each similar case the court has heard in the five years previous to the case a party might be filing. Let's take a divorce action, for example. Would we ever expect a district judge to provide a list setting out for each case the names of the parties and attorneys, who filed the action (i.e. selected the judge), who "won" the case by listing who received the house, who received any retirement, who the children resided with during the school year, the amount of child support, etc. so that before "selecting" the judge the party could decide is he or she might be more likely to decide the case for the mother vs. the father. Although the court records are usually "public", this type of information is not available every time somebody might end up before a judge.

If protection in consumer arbitrations is the intent of this bill, there are much better ways to do it that would not include such huge consequences to all other areas of arbitration.

This bill is too far reaching and will do more harm than good.

The purpose of this bill needs to be made very clear, reviewed extensively, and input allowed and encouraged from everyone involved to develop a comprehensive solution, and that takes time.

I oppose HB 322 and respectfully request that this matter be considered in depth during the next two years so it can be properly addressed in the next legislative session.

Vicki Knudsen